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## SENATE BILL No. 102

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 23-14; IC 25-15-9-18; IC 29-2-19-17; IC 30-2-13-9.

**Synopsis:** Interment of service members' remains. Provides that a person granted the authority to direct the disposition of remains of a service member in a certain United States Department of Defense form is first in the priority of individuals who may authorize the cremation of another person's remains and who may authorize the owner of a cemetery to inter, entomb, or inurn the body or cremated remains of a deceased human.

**Effective:** Upon passage.

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January 5, 2010, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

## SENATE BILL No. 102

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 23-14-31-26, AS AMENDED BY P.L.143-2009,  
2       SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       UPON PASSAGE]: Sec. 26. (a) Except as provided in subsection (c),  
4       the following persons, in the priority listed, have the right to serve as  
5       an authorizing agent:

6               **(1) An individual granted the authority to direct the**  
7               **disposition of remains of a service member in a United States**  
8               **Department of Defense form "Record of Emergency Data"**  
9               **(DD Form 99) or a successor form adopted by the United**  
10              **States Department of Defense.**

11              ~~(1)~~ **(2)** An individual granted the authority to serve in a funeral  
12              planning declaration executed by the decedent under IC 29-2-19.

13              ~~(2)~~ **(3)** An individual granted the authority to serve in a health  
14              care power of attorney executed by the decedent under  
15              IC 30-5-5-16.

16              ~~(3)~~ **(4)** The individual who was the spouse of the decedent at the  
17              time of the decedent's death.



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~~(4)~~ (5) The decedent's surviving adult children. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the crematory authority receives a written objection to the cremation from another adult child.

~~(5)~~ (6) The decedent's surviving parent. If the decedent is survived by both parents, either parent may serve as the authorizing agent unless the crematory authority receives a written objection to the cremation from the other parent.

~~(6)~~ (7) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree is surviving, any person of that degree may serve as the authorizing agent unless the crematory authority receives a written objection to the cremation from one (1) or more persons of the same degree.

~~(7)~~ (8) In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following may serve as the authorizing agent:

(A) If none of the persons identified in subdivisions (1) through ~~(6)~~ (7) are available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

However, an indigent decedent may not be cremated if a surviving family member objects to the cremation or if cremation would be contrary to the religious practices of the deceased individual as expressed by the individual or the individual's family.

~~(8)~~ (9) In the absence of any person under subdivisions (1) through ~~(7)~~; (8), any person willing to assume the responsibility as the authorizing agent, as specified in this article.

(b) When a body part of a nondeceased individual is to be cremated, a representative of the institution that has arranged with the crematory authority to cremate the body part may serve as the authorizing agent.

(c) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency

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1 investigating the death of the decedent, determines that there is a  
 2 reasonable suspicion that a person described in subsection (a)  
 3 committed the offense;  
 4 the person referred to in subdivision (2) may not serve as the  
 5 authorizing agent.

6 (d) The coroner, in consultation with the law enforcement agency  
 7 investigating the death of the decedent, shall inform the crematory  
 8 authority of the determination referred to in subsection (c)(2).

9 SECTION 2. IC 23-14-55-2, AS AMENDED BY P.L.143-2009,  
 10 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (d),  
 12 the owner of a cemetery is authorized to inter, entomb, or inurn the  
 13 body or cremated remains of a deceased human upon the receipt of a  
 14 written authorization of an individual who professes either of the  
 15 following:

16 (1) To be (in the priority listed) one (1) of the following:

17 **(A) An individual granted the authority to direct the**  
 18 **disposition of remains of a service member in a United**  
 19 **States Department of Defense form "Record of Emergency**  
 20 **Data" (DD Form 99) or a successor form adopted by the**  
 21 **United States Department of Defense.**

22 ~~(A)~~ **(B)** An individual granted the authority in a funeral  
 23 planning declaration executed by the decedent under  
 24 IC 29-2-19.

25 ~~(B)~~ **(C)** An individual granted the authority in a health care  
 26 power of attorney executed by the decedent under  
 27 IC 30-5-5-16.

28 ~~(C)~~ **(D)** The individual who was the spouse of the decedent at  
 29 the time of the decedent's death.

30 ~~(D)~~ **(E)** The decedent's surviving adult child. If more than one  
 31 (1) adult child is surviving, any adult child who confirms in  
 32 writing that the other adult children have been notified, unless  
 33 the owner of the cemetery receives a written objection to the  
 34 disposition from another adult child.

35 ~~(E)~~ **(F)** The decedent's surviving parent. If the decedent is  
 36 survived by both parents, either parent unless the cemetery  
 37 owner receives a written objection to the disposition from the  
 38 other parent.

39 ~~(F)~~ **(G)** The individual in the next degree of kinship under  
 40 IC 29-1-2-1 to inherit the estate of the decedent. If more than  
 41 one (1) individual of the same degree of kinship is surviving,  
 42 any person of that degree unless the cemetery owner receives

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1 a written objection to the disposition from one (1) or more  
2 persons of the same degree of kinship.

3 (2) To have acquired by court order the right to control the  
4 disposition of the deceased human body or cremated remains.

5 The owner of a cemetery may accept the authorization of an individual  
6 only if all other individuals of the same priority or a higher priority  
7 (according to the priority listing in this subsection) are deceased, are  
8 barred from authorizing the disposition of the deceased human body or  
9 cremated remains under subsection (d), or are physically or mentally  
10 incapacitated from exercising the authorization, and the incapacity is  
11 certified to by a qualified medical doctor.

12 (b) A cemetery owner is not liable in any action for making an  
13 interment, entombment, or inurnment under a written authorization  
14 described in subsection (a) unless the cemetery owner had actual notice  
15 that the representation made under subsection (a) by the individual who  
16 issued the written authorization was untrue.

17 (c) An action may not be brought against the owner of a cemetery  
18 relating to the remains of a human that have been left in the possession  
19 of the cemetery owner without permanent interment, entombment, or  
20 inurnment for a period of three (3) years, unless the cemetery owner  
21 has entered into a written contract for the care of the remains.

22 (d) If:

- 23 (1) the death of the decedent appears to have been the result of:  
24 (A) murder (IC 35-42-1-1);  
25 (B) voluntary manslaughter (IC 35-42-1-3); or  
26 (C) another criminal act, if the death does not result from the  
27 operation of a vehicle; and  
28 (2) the coroner, in consultation with the law enforcement agency  
29 investigating the death of the decedent, determines that there is a  
30 reasonable suspicion that a person described in subsection (a)  
31 committed the offense;

32 the person referred to in subdivision (2) may not authorize the  
33 disposition of the decedent's body or cremated remains.

34 (e) The coroner, in consultation with the law enforcement agency  
35 investigating the death of the decedent, shall inform the cemetery  
36 owner of the determination referred to in subsection (d)(2).

37 SECTION 3. IC 25-15-9-18, AS AMENDED BY P.L.143-2009,  
38 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
39 UPON PASSAGE]: Sec. 18. (a) Except as provided in subsection (b),  
40 the following persons, in the order of priority indicated, have the  
41 authority to designate the manner, type, and selection of the final  
42 disposition and interment of human remains:

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**(1) An individual granted the authority to direct the disposition of remains of a service member in a United States Department of Defense form "Record of Emergency Data" (DD Form 99) or a successor form adopted by the United States Department of Defense.**

~~(1)~~ **(2)** An individual granted the authority in a funeral planning declaration executed by the decedent under IC 29-2-19.

~~(2)~~ **(3)** An individual granted the authority in a health care power of attorney executed by the decedent under IC 30-5-5-16.

~~(3)~~ **(4)** The individual who was the spouse of the decedent at the time of the decedent's death.

~~(4)~~ **(5)** The decedent's surviving adult child. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the licensed funeral director or licensed funeral home receives a written objection from another adult child.

~~(5)~~ **(6)** The decedent's surviving parent. If the decedent is survived by both parents, either parent has the authority unless the licensed funeral director or licensed funeral home receives a written objection from the other parent.

~~(6)~~ **(7)** The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree survives, any person of that degree has the authority unless the licensed funeral director or licensed funeral home receives a written objection from one (1) or more persons of the same degree.

~~(7)~~ **(8)** In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following:

(A) If none of the persons identified in subdivisions (1) through ~~(6)~~ **(7)** is available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

(b) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency

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investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;  
the person referred to in subdivision (2) may not authorize or designate the manner, type, or selection of the final disposition and internment of human remains.

(c) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner or crematory authority of the determination under subsection (b)(2).

SECTION 4. IC 29-2-19-17, AS ADDED BY P.L.143-2009, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The right to control the disposition of a decedent's body, to make arrangements for funeral services, and to make other ceremonial arrangements after an individual's death devolves on the following, in the priority listed:

**(1) An individual granted the authority to direct the disposition of remains of a service member in a United States Department of Defense form "Record of Emergency Data" (DD Form 99) or a successor form adopted by the United States Department of Defense.**

~~(1)~~ **(2)** An individual granted the authority in a funeral planning declaration executed by the decedent under this chapter.

~~(2)~~ **(3)** An individual granted the authority in a health care power of attorney executed by the decedent under IC 30-5-5-16.

~~(3)~~ **(4)** The decedent's surviving spouse.

~~(4)~~ **(5)** A surviving adult child of the decedent.

~~(5)~~ **(6)** A surviving parent of the decedent.

~~(6)~~ **(7)** An individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent.

SECTION 5. IC 30-2-13-9, AS AMENDED BY P.L.143-2009, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (b), as used in this chapter, "purchaser" means a person or firm contracting with a seller for services or merchandise to be provided or delivered for a named individual.

(b) As used in section 13(b) of this chapter, "purchaser" means:

**(1) an individual granted the authority to direct the disposition of remains of a service member in a United States Department of Defense form "Record of Emergency Data" (DD Form 99) or a successor form adopted by the United States Department of Defense;**

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- 1 ~~(1)~~ **(2)** an individual granted the authority in a funeral planning
- 2 declaration executed by the decedent under IC 29-2-19;
- 3 ~~(2)~~ **(3)** an individual described in subsection (a);
- 4 ~~(3)~~ **(4)** the attorney in fact, appointed under IC 30-5, of an
- 5 individual described in subsection (a);
- 6 ~~(4)~~ **(5)** the guardian, appointed under IC 29-3, of an individual
- 7 described in subsection (a); or
- 8 ~~(5)~~ **(6)** if an individual described in subsection (a) is deceased:
- 9 (A) the surviving spouse of the individual;
- 10 (B) if there is no surviving spouse, the adult children of the
- 11 individual;
- 12 (C) if there is no surviving spouse or surviving adult child, the
- 13 surviving parent or parents of the individual; or
- 14 (D) if there is neither a surviving spouse nor adult children,
- 15 nor a surviving parent, the personal representative (as defined
- 16 in IC 29-1-1-3) of the individual.

17 **SECTION 6. An emergency is declared for this act.**

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